

Appl. No. 10/810,940
Docket No. 9191ML
Amdt. dated September 26, 2006
Reply to Office Action mailed on August 29, 2006
Customer No. 27752

REMARKS

Response to Restriction Requirement

The Examiner has required, under 35 USC §121, election of a single group of claims for prosecution on the merits. A provisional election is made herein with traverse.

Traversal of Restriction Requirement

The withdrawal of the indicated Restriction Requirement is requested as it is considered improperly made.

The Examiner asserts that there are four separate inventions: Group I drawn to a composition; Group II drawn to a method of increasing film strength; Group III drawn to a method of increasing shelf life; and Group IV drawn to a method of treating oral conditions.

The Examiner asserts that Groups I, II, III, and IV are related as product and process of use, but that the Groups are distinct because materially different compositions could be used to increase film strength and shelf life, and to treat oral conditions, citing respectively polyethylene glycol, citric acid, and tea tree oil.

The Examiner further asserts that Groups II, III, and IV are different because they are not connected in design, operation and/or effect.

The Applicants respectfully traverse the Restriction Requirement. The methods are related in that they all are methods relating to use of, properties of, or properties provided by, the claimed composition. For example, the fiber component provides the increase of film strength and shelf life. Thus, all the Groups of claims, both compositions and methods, are related via the composition.

Furthermore, under MPEP § 803, election/restriction is proper when *both* of the following criteria are met: (1) The inventions must be independent or distinct as claimed; and (2) There must be a serious burden on the Examiner if the restriction were not required.

Appl. No. 10/810,940
Docket No. 9191ML
Amdt. dated September 26, 2006
Reply to Office Action mailed on August 29, 2006
Customer No. 27752

Because all of the composition claims and all of the method claims are classified in class 424, the Applicants assert that there would not be an undue burden to the Examiner to search all of the Groups of claims together in a single search including class 424. Therefore, the Applicants respectfully submit that the Restriction Requirement is improper and should be withdrawn.

However, in compliance with the Restriction Requirement, the Applicants provisionally elect, with traverse, Group I drawn to the composition. Claims 1-13 are drawn to the composition of Group I.

Finally, the Applicants note the Examiner's acknowledgement that because the claims are restricted between product and process claims, and because the Applicants have elected claims directed to the product, if the product claims are found to be allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claims will be considered for rejoinder. In the event of such rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability, in accordance with 37 C.F.R. 1.104.

Conclusion

The Applicants therefore respectfully request that Examiner reconsider the Restriction Requirement and proceed to examination of the application on the merits. If the Examiner believes that personal contact would be beneficial for disposition of the present application, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By



Kristin Kohler

Registration No. 41,907

(513) 662-3371

Date: September 26, 2006
Customer No. 27752